

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 9170 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE K.G.BALAKRISHNAN

and

MR.JUSTICE J.M.PANCHAL

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1. Whether Reporters of Local Papers may be allowed to see the judgements? No
  2. To be referred to the Reporter or not? No
  3. Whether Their Lordships wish to see the fair copy of the judgement? No
  4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? No
  5. Whether it is to be circulated to the Civil Judge? No
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RATILAL MOTILAL PATEL

Versus

SPECIAL LAND ACQUISITION OFFICER

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Appearance:

MR BC DAVE for Petitioner

MR VB GARANIA for Respondent No. 1

MR AJAY R MEHTA for Respondent No. 2

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CORAM : MR.JUSTICE K.G.BALAKRISHNAN and

MR.JUSTICE J.M.PANCHAL

Date of decision: 10/03/98

ORAL JUDGEMENT

(Per : Balakrishnan,J.) :-

Rule. Mr. V.B.Garania, learned A.G.P. waives service of rule on behalf of respondent no.1. Mr. Ajay H.Mehta, learned Counsel waives service of rule on behalf of respondent no.2.

At the request of learned Counsel appearing for the parties, the petition is heard today.

The petitioner is the owner of land comprising survey no.674, admeasuring 1 Hectare, 46 Are & 70 sq.mts. By a notification dated 25.2.1982 this property was temporarily acquired for the purposes of drilling operations to be done by the 2nd respondent. A sum of Rs.100/- per Are annually was fixed as compensation and the property was in occupation of 2nd respondent till 1993. In December, 1993, the property was given back to the petitioner and a sum of Rs.35,000/- was paid as compensation under section 36(2) of the Land Acquisition Act, 1894 ("Act" for short). The contention of the petitioner is that at the time when the possession of land was restored to the petitioner, it was permanently unfit for any agricultural purpose due to drilling operations carried out by the 2nd respondent. The petitioner contends that he is entitled to get compensation to the tune of Rs.35,000/- and he has received the said compensation under protest and, therefore, the matter is required to be referred to the District Court under section 37 of the Act.

We heard the petitioner's Counsel, learned A.G.P. for respondent no.1 and Counsel for respondent no.2.

The petitioner presses into service an application submitted to the respondents on 1.3.1994. In that application, he claimed Rs.8000/- per Bigha as compensation. Even in that application he has not made any prayer for referring the matter to the District Court under section 37 of the Act. He has prayed only for enhancement of compensation. As land itself was handed over to the petitioner in the year 1993, it is not possible to refer the matter to the District Court under section 37 of the Act, as it is highly belated. The condition of the land itself must have undergone change and the Court will not be in a position to determine the extent of damage, if any caused to the petitioner's land by drilling operations carried out by the 2nd respondent. The present Special Civil Application filed after a period of four years cannot be entertained.

For the above reasons, we dismiss the Special Civil Application. Rule is discharged.

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